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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/001,412 | 10/25/2001 | Patrick C. Herbert | 01AB013 | 4213 |
| 7590 | 10/03/2003 | | EXAMINER | |
| Susan M. Donahue Rockwell Automation, 704-P 1201 South Second Street Milwaukee, WI 53204 | | | NGUYEN, VINH P | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2829 | |

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|----------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/001,412 | HERBERT ET AL. |
| | Examiner | Art Unit |
| | VINH P NGUYEN | 2829 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 08/07/03.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-34 is/are pending in the application.

4a) Of the above claim(s) 3,7-9,11-12,15-16,18-19,21-33 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-2,10,13-14,17 and 20 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____

4) Interview Summary (PTO-413) Paper No(s) _____

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____

1. Applicant's election without traverse of species of figures 7-8 in Paper No. 9 is acknowledged.
2. It appears that the limitations of claims 3,7-9,15-16,18 and 21-27 do not read on elected species of figures 7-8
3. Claims 3,7-9,11-12,15-16,18,19 and 21-33 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 9.
4. Claim 14 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.
It appears that the specification does not have support for the limitation of claim 14.
5. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
In claim 17, it is unclear what "a traverse expansion element" represents. Is it shown in any of drawings?
6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-2,4-6,10,13 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Tran et al (Pat # 6,275,034).

As to claims 1-2, and 20, Tran et al disclose a micromachined beam arrangement as shown in figure 3 having a longitudinally movable beam (306) and a pair of traverse arms (306,310). It is noted that the arms includes flexible/twist elements and they are connected to a substrate.

As to claims 4-6, it appears that the twist elements/end of the arms (306,310) are serpentine.

As to claim 10, it appears that there is a magnetic field occurrence in the apparatus of figure 3.

As to claim 13, it appears that the traverse arms (306,310) are of equal length.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Knieser et al (Pat # 6,583,374) disclose microelectromechanical system (MEMS) digital electrical isolator.

Chaparala (Pat # 5,977,767) discloses nulling loop configuration for an electrically insulating cantilever magnetometer.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VINH P. NGUYEN whose telephone number is (703) 305-4914. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4900.


VINH P. NGUYEN
PRIMARY EXAMINER
ART UNIT 2829
09/12/03